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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,978	01/18/2002	Douglas Paul Allard	11533.0024.NPUS00	5146
7590	03/04/2004		EXAMINER	
Howrey Simon Arnold & White 750 Bering Drive Houston, TX 77057			THEISEN, DOUGLAS J	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/053,978	ALLARD, DOUGLAS PAUL
	Examiner	Art Unit
	Douglas J. Theisen	1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 December 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 18-21 and 23-26 is/are allowed.
- 6) Claim(s) 1 is/are rejected.
- 7) Claim(s) 2-17 and 22 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 December 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Drawings

1. The amended drawing of figure 2 is objected to because figure 2 has also been labeled as "figure 1". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The abstract of the disclosure is objected to because the word "of" was omitted after "amount" in line 1 and because "reduces" in line 6 should be "reduce". Correction is required. See MPEP § 608.01(b).

Claim Objections

3. Claim 22 is objected to because of the following informalities: The word "membrane" is missing after the second occurrence of "permeable" in line 5 of the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by Japan patent no. 2001170648A to Ja et al. Ja describes an apparatus comprising a permeable membrane defining a bag having an opening, an interior space and fine openings in the membrane with chitosan located within the bag. See Figures 1, 2, and 3 and the abstract.

Response to Arguments

6. Applicant's arguments filed 12 December 2003 have been fully considered but they are not persuasive. Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by Japan patent no. 2001170648A to Ja et al. In response to applicant's arguments, the recitation "for removing silt, sedimentation, and suspended solids from incoming water" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

7. Applicant's arguments, see the response to the rejection under 35 U.S.C. 103(a) over U.S. patent no. 6,334,953 to Singleton in view of U.S. patent no. 5,511,904 to Van Egmond and in view of Vanson, filed 12 December 2003 with respect to claims 1, 2, 4, 7, and 8 have been fully considered and are persuasive. The rejection of claims 1, 2, 4, 7, and 8 has been withdrawn.

8. Applicant's arguments, see the response to the rejection under 35 U.S.C. 103(a) over Singleton in view of Van Egmond and Vanson as applied to claims 1, 2, 4, 7, and 8, and further

in view of U.S. patent application publication 2002/0130070 A1 to Roesner, filed 12 December 2003 with respect to claim 10 have been fully considered and are persuasive. The rejection of claim 10 has been withdrawn.

Allowable Subject Matter

9. Claims 2-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 18-21 and 23-26 are allowed.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas J. Theisen whose telephone number is 571-272-1168. The examiner can normally be reached on Monday, Tuesday, and Wednesday 6:30 until 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on 571-272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

djt

DUANE SMITH
PRIMARY EXAMINER
D. J. T.
2-25-04